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November 2, 2011

Magistrate Judge Maria-Elena James
 United States District Court - Northern District
 450 Golden Gate Ave.
 San Francisco, CA 94120

Re: Lilah R. vs. Berkeley Unified School District, et al.
 CV 11-1860 MEJ

Dear Judge James:

Our office represents defendant Anthony Smith in the above-referenced matter. We write to formally request an extension on the page limitation of the parties' joint discovery letter. For the reasons discussed herein, defendants request leave to increase the length of the parties' joint letter to nine pages (three pages per party), rather than five pages as required by your Honor's standing discovery order.

This matter involves plaintiff Lilah R. and defendants Anthony Smith, Berkeley Unified School District and William Huyett. Defendant Smith is represented by our office. Defendants BUSD and Huyett are represented by James Marzan, of Edrington, Schirmer & Murphy. Plaintiff's First Amended Complaint states causes of action for violation of Title IX, violation of 42 U.S.C. §1983, violation of Civ. Code §§51 and 52, Violation of Govt. Code §11135, and Negligence against BUSD. The FAC includes causes of action for violation of 42 U.S.C. §1983, violation of Civ. Code §§51 and 52, Sexual Battery and Negligence against Mr. Smith.

A dispute has arisen among the parties related to the scope of the defendants' discovery into certain aspects of Plaintiff's sexual history and communications made by Plaintiff to Mr. Smith. Given the varying causes of action brought against each individual defendant, each defendant has different arguments in support of its position on this complicated discovery dispute. In full, the defendants' combined arguments total more than 13 pages (single-spaced). In an effort to comply with the 5-page limit in the court's standing discovery order, defendants have endeavored to pare their arguments down. Unfortunately, a 5-page limit will necessarily preclude defendants from presenting the court with the relevant legal authority and facts upon which defendants rely in support of their position.

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Defendants are cognizant of the court's full schedule and do not wish to inundate the court with needless paperwork. However, the defendants take this discovery matter very seriously and we have significant concerns about our ability to fully articulate our position in a joint letter of no more than five pages. As such, defendants request leave to submit a joint discovery letter of no more than nine pages (three pages for Plaintiff, three pages for Mr. Smith and three pages for BUSD/Huyett).

Thank you for considering this request. We look forward to resolving this discovery dispute as soon as possible and moving forward with the remainder of this litigation.

Very truly yours,

DAVIS & YOUNG, APLC



Mark E. Davis

MED:ejb